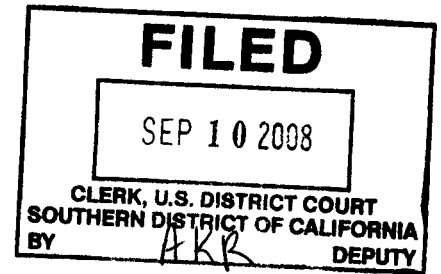


**SIRI SHETTY**

California State Bar No. 208812  
110 West "C" Street #1903  
San Diego, California 92101  
Telephone: (619) 602-8479  
\_\_Retained XAppointed



UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

PRESIDING JUDGE Thomas J. Whelan

COURT REPORTER Melissa Pierson

UNITED STATES OF AMERICA, )  
)  
(Appellant/Appellee) Plaintiff, )  
)  
v. )  
PEDRO AVALOS (2), )  
)  
(Appellant/Appellee) Defendant. )  
\_\_\_\_\_)  
)

CRIMINAL NO. 08CR0299

**NOTICE OF APPEAL**

Notice is hereby given that **Pedro Avalos**, defendant above-named, hereby appeals to the United States Court of Appeals for the Ninth Circuit from the (check one)

( ) Final Judgment (FED. R. Crim. P. 32(d))

(X) Sentence Only (18 U.S.C. § 3742) Sentence Imposed 30 months

( ) Order (describe) \_\_\_\_\_  
entered in this proceeding on the \_ day of \_\_.

If government appeal:

Was the filing of this appeal approved in accordance with 18 U.S.C. § 3742(b)(4)? \_\_YES \_\_NO

DATED: September 10, 2008

Siri Shetty  
SIRI SHETTY for Defendant-Appellant, **Pedro Avalos**

Transcripts Required\*\* X YES \_\_NO Date Ordered/to be Ordered 10/10/08

Date (X) Indictment () Information Filed: February 6, 2008

Bail Status In custody

Will there be a request to expedite the appeal and set a schedule faster than that normally set? \_YES XNO  
(Note: This does not alleviate requirement of filing a motion to expedite which must be done in accordance with FRAP 27.

\*Pursuant to Fed. R. Crim. P. 32(d) the defendant may request the clerk to prepare and file the Notice of Appeal.

\*\*If transcript required, transcript order form (CA9-036) must be completed and court reporter contacted to make arrangements for transcription.

**FILED**

SEP - 8 2008

CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA  
BY  DEPUTY

Judgment in a Criminal Case  
Sheet 1

**United States District Court**  
Southern District of California

UNITED STATES OF AMERICA  
Vs  
Pedro Avalos (02)

**JUDGMENT IN A CRIMINAL CASE**  
(For Offenses Committed On or After November 1, 1987)

Case Number:08CR0299-W

Siri Shetty  
Defendant's Attorney

**REGISTRATION NO.07055298**

THE DEFENDANT:  
pleaded guilty to count one of the indictment.

Accordingly, the defendant is adjudged guilty of such counts, which involve the following offenses :

<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Count Number</u>
8 USC 1324(a)(1)(A)(ii) and (v)(II)	Transportation of Illegal Aliens	1

The defendant is sentenced as provided in pages 2 through 4 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

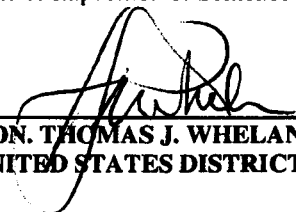
Counts two and three are dismissed on motion of the United States.

Penalty Assessment \$100.00, payable forthwith, to the Clerk, United States District Court.

Fine waived.

IT IS ORDERED that the defendant shall notify the United States Attorney for this district within thirty days of any change of name, residence or mailing address until all fines, restitution costs and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant shall notify the court and United States Attorney of any material change in the defendant's economic circumstances.

September 8, 2008  
Date of Imposition of Sentence

  
HON. THOMAS J. WHELAN  
UNITED STATES DISTRICT JUDGE

Judgment in a Criminal Case  
Sheet 2 - Imprisonment

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Judgment - Page 2 of 4

DEFENDANT: Pedro Avalos  
CASE NUMBER: 08CR0299-W

### IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 30 months.

### RETURN

I have executed this judgment as follows:

Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_  
at \_\_\_\_\_, with a certified copy of this judgment.

\_\_\_\_\_  
UNITED STATES MARSHAL

By

\_\_\_\_\_  
DEPUTY UNITED STATES MARSHAL

Judgment in a Criminal Case  
Sheet 3 - Supervised Release

DEFENDANT: Pedro Avalos  
CASE NUMBER: 08CR0299-W

Judgment - Page 3 of 4

**SUPERVISED RELEASE**

Upon release from imprisonment, the defendant shall be on supervised release for a term of three years.

The defendant shall report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

**For offenses committed on or after September 13, 1994:**

The defendant shall not illegally possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter as determined by the court. Testing requirements will not exceed submission of more than eight drug tests per month during the term of supervision, unless otherwise ordered by the court.

— The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse.

☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon.

☒ The defendant shall cooperate in the collection of DNA as directed by the probation officer pursuant to 18 USC 3583(d).

— The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer.

— The defendant shall participate in an approved program for domestic violence.

If this judgment imposes a fine or restitution obligation, it is a condition of supervised release that the defendant pay any such fine or restitution that remains unpaid at the commencement of the term of supervised release in accordance with the Schedule of Payments set forth in this judgment.

The defendant must comply with the standard conditions that have been adopted by this court. The defendant shall also comply with any special conditions imposed.

**STANDARD CONDITIONS OF SUPERVISION**

- 1) The defendant shall not leave the judicial district without the permission of the court or probation officer.
- 2) The defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month.
- 3) The defendant shall answer, truthfully, all inquiries by the probation officer and follow the instructions of the probation officer.
- 4) The defendant shall support his or her dependents and meet other family responsibilities.
- 5) The defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons.
- 6) The defendant shall notify the probation officer at least ten days prior to any change in residence or employment.
- 7) The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician.
- 8) The defendant shall not frequent places where controlled substances are illegally sold, used, distributed or administered.
- 9) The defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer.
- 10) The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer.
- 11) The defendant shall notify the probation officer within 72 hours of being arrested or questioned by a law enforcement officer.
- 12) The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court.
- 13) As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirements.

Judgment in a Criminal Case  
Sheet 4 - Continued Supervised Release Conditions

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Judgment - Page 4 of 4

DEFENDANT: Pedro Avalos  
CASE NUMBER: 08CR0299-W

**SPECIAL CONDITIONS OF SUPERVISION**

- X The defendant shall submit to a search of person, property, residence, abode or vehicle, at a reasonable time and in a reasonable manner, by the probation officer.
- X The defendant shall report all vehicles owned, operated, or in which the defendant has an interest to the probation officer.
- X The defendant shall not enter or reside in the Republic of Mexico without the permission of the probation officer.
- X The defendant shall participate in a program of drug or alcohol abuse treatment, including urinalysis testing and counseling, as directed by the probation officer. The defendant may be required to contribute to the costs of services rendered in an amount to be determined by The probation officer, based on the defendant's ability to pay. Drug testing requirements will not exceed submission of more than eight drug tests per month during the term of supervision, unless by order of the court.
- X The defendant shall resolve all outstanding warrants within sixty days of release from custody.

MIME-Version:1.0  
From:efile\_information@casd.uscourts.gov  
To:bcc\_only  
Bcc:cirolaw@aol.com, karmingia@aol.com, Efile.dkt.gc2@usdoj.gov, attyshetty@yahoo.com, smann@kerrysteigerwalt.com, samanthamann143@hotmail.com, steven.desalvo@usdoj.gov, efile.dkt.gc1@usdoj.gov, efile\_Whelan@casd.uscourts.gov, marilyn.weaver@usdoj.gov  
Message-Id:<2821556@casd.uscourts.gov>  
Subject:Activity in Case 3:08-cr-00299-W USA v. Banner et al Order on Motion for Downward Departure  
Content-Type: text/html

**\*\*\*NOTE TO PUBLIC ACCESS USERS\*\*\* Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30 page limit do not apply.'**

**U.S. District Court**

**Southern District of California**

**Notice of Electronic Filing**

The following transaction was entered on 9/8/2008 at 11:24 AM PDT and filed on 9/8/2008

**Case Name:** USA v. Banner et al

**Case Number:** 3:08-cr-299

**Filer:**

**Document Number:** 43(No document attached)

**Docket Text:**

**Minute Entry : P/O Report and Sentencing held on 9/8/2008 for Pedro Avalos (2) before Judge Whelan. Defendant's motion for departure (39-1) denied. Defendant committed to the custody of the Bureau of Prisons for 30 months.Supervised Release 3 years.\$100.00 P.A. No Fine; Remaining counts dismissed. (Court Reporter Melissa Pierson.)(Plaintiff Attorney Steven DeSalvo).(Defendant Attorney Siri Shetty). (ct)**

**3:08-cr-299-2 Notice has been electronically mailed to:**

Ciro Hernandez cirolaw@aol.com, karmingia@aol.com

U S Attorney CR Efile.dkt.gc2@usdoj.gov

Siri Shetty attyshetty@yahoo.com

Samantha Mann smann@kerrysteigerwalt.com, samanthamann143@hotmail.com

Steven D De Salvo steven.desalvo@usdoj.gov, efile.dkt.gc1@usdoj.gov, marilyn.weaver@usdoj.gov

**3:08-cr-299-2 Notice has been delivered by other means to:**

MIME-Version:1.0  
From:efile\_information@casd.uscourts.gov  
To:casd.uscourts.gov  
Bcc:casd\_ecf@fd.org, cirolaw@aol.com, karmingia@aol.com, Efile.dkt.gc2@usdoj.gov, attyshetty@yahoo.com, efile\_Major@casd.uscourts.gov  
Message-Id:<2389396@casd.uscourts.gov>  
Subject:Activity in Case 3:08-mj-00241-BLM USA v. Banner et al Initial Appearance  
Content-Type: text/html

**\*\*\*NOTE TO PUBLIC ACCESS USERS\*\*\* You may view the filed documents once without charge. To avoid later charges, download a copy of each document during this first viewing.**

**U.S. District Court**

**Southern District of California**

**Notice of Electronic Filing**

The following transaction was entered on 1/29/2008 at 10:43 AM PST and filed on 1/28/2008

**Case Name:** USA v. Banner et al  
**Case Number:** 3:08-mj-241  
**Filer:** Dft No. 1 - Nicole Marie Banner  
Dft No. 8888 - Beatriz De La Luz-Martinez  
Dft No. 2 - Pedro Avalos

**Document Number:** 2(No document attached)

**Docket Text:**

Minute Entry for proceedings held before Judge Barbara Lynn Major: Initial Appearance on complaint as to Nicole Marie Banner (1) and Pedro Avalos (2) held on 1/28/2008. Federal Defenders appointed for Nicole Marie Banner (1). Attorney Siri Shetty (n/a) appointed for Pedro Avalos (2). Bond set as to Nicole Marie Banner (1) \$15,000 P/S. Bond set as to Pedro Avalos (2) \$25,000 P/S; 18:3142(d) hold until 2/07/08. Arraignment of Material Witness Beatriz De La Luz-Martinez held on 1/28/2008. Attorney Ciro Hernandez (n/a) appointed for Material Witnesses Beatriz De La Luz-Martinez, Moises De La Luz-Martinez (n/a), and Francisco Javier Vega-Rodriguez (n/a). Material Witness Beatriz De La Luz-Martinez bail set at \$10,000 P/S w/10 percent cash deposit, M/W must be able to legally remain in the U.S. and follow PTS supervision. Preliminary Hearing set for 2/7/2008 09:00 AM before Magistrate Judge Barbara Lynn Major. (Tape #1342-1357; 1405-1510).(Plaintiff Attorney Carlos Cantu, AUSA). (Defendant Attorney Bridgette Kennedy, FD-S/A). (jjh)

**3:08-mj-241-1 Notice has been electronically mailed to:**

Federal Defenders casd\_ecf@fd.org  
Ciro Hernandez cirolaw@aol.com, karmingia@aol.com  
U S Attorney CR Efile.dkt.gc2@usdoj.gov  
Siri Shetty attyshetty@yahoo.com

**3:08-mj-241-1 Notice has been delivered by other means to:**

## Notice of Appeal Notification Form

**To:** Clerk, U.S. Court of Appeals  
**From:** U.S. District Court, Southern District of California  
**Subject:** New Appeals Case Information & Docket Fee Notification

**Date:** 9/10/2008

### Case Information

Case Title: United States of America v. Pedro Avalos

U.S.D.C. No.: 08cr299-W-2

U.S.D.C. Judge: Thomas J. Whelan

Complaint/Indictment/Petition Filed: Indictment

Appealed Order Entered: 9/8/2008

Notice of Appeal Filed: 9/10/2008

Court Reporter: Melissa Pierson

COA Status: ☐ Granted in full/part (appeal only)

☐ Denied (send clerk's file)

### Docket Fee Notification

Docket Fee: ☐ Paid

☐ Not Paid

☒ No Fee Required

USA/GOVT. APPEAL: ☐ Yes ☒ No

Date F/P granted (Show Date and Attach Copy of Order): \_\_\_\_\_

Was F/P Status Revoked? ☐ Yes

☐ No

Companion Case(s): (Please list consolidated cases, if applicable) \_\_\_\_\_

### Counsel Information

#### Appellant Counsel:

Siri Shetty  
Law Offices of Siri Shetty  
110 West C Street  
Suite 1903  
San Diego, CA 92101  
(619) 602-8479

#### Appellee Counsel:

Steven D De Salvo  
U S Attorneys Office Southern District of CA  
Criminal Division  
880 Front Street, Room 6293  
San Diego, CA 92101  
(619) 557-5610

Counsel Status: ☐ Retained

☒ Appointed

☐ Pro Se

Appointed by: Magistrate Judge Barbara Lynn Major

(Attach copy of order/minutes)



**Defendant Information**Prisoner ID Number: 07055-298

Bail: \_\_\_\_\_

Custody: x**SERVICE LIST**

**Counsel for Appellant(s) and Appellee(s), as listed on the previous page, have been sent copies of the following items:**

x	Transmittal of U.S.C.A. (Appellant and Appellee)
x	Case Information/Docketing Fee Notification Form. (Appellant Only)
x	Notice of Appeal. (Appellant, Appellee, U.S. District Judge, USPO, and Court Reporter)
x	Docket Entries (Appellant and Appellee)
x	Designation of Reporter's Transcript and Ordering Form. (Appellant Only, mailed separately)
x	Order for Time Schedule. (Criminal Only) (Appellant, Appellee, and Court Reporter)
	Magistrate Judge's Report and Recommendation
	COA Order
	F/P Order
	Minute Order
x	Other: Judgment, entered 9/8/2008; NEF Sentencing Minutes, entered 9/8/2008; NEF Minutes appointing counsel, entered 1/29/2008

Form Completed And Documents Served By U.S. District Court Deputy Clerk:

Angela Rowland

Deputy's Name

A Rowland

Deputy's Signature

**UNITED STATES DISTRICT COURT**

Southern District Of California  
 Office Of The Clerk  
 880 Front Street, Room 4290  
 San Diego, California 92101-8900  
 Phone: (619) 557-5600  
 Fax: (619) 702-9900

W. Samuel Hamrick, Jr.  
 Clerk of Court

To: Clerk, U.S. Court of Appeals  
 P.O. Box 193939  
 San Francisco, CA 94119-3939

Re: **USCA No:**  
**USDC No: 08cr299-W-2**  
**USA v. Avalos**

Clerk, U.S. Court of Appeals, enclosed herewith you will please find:

x	Copy of the Notice of Appeal	x	Docket Entries
x	Case Information/Docket Fee Payment Notification Form		
x	Order for Time Schedule (Criminal)		
	Original Clerk's Record in	set(s) of	volume(s).
	Reporter's transcript's transcripts in	set(s) of	volume(s).
	Exhibits in	envelope(s)	box(es) folders(s)
x	Judgement Order		F/P Order
	CJA Form 20		Minute Order
	Certificate of Record		Mandate Return
	Magistrate Judge's Report and Recommendation		
	COA Order		
	Amended docket fee notification form		
	Order Appointing Counsel for Appeal		
x	NEF Sentencing Minutes, entered 9/8/2008; NEF Minutes appointing counsel, entered 1/29/2008		
x	Please acknowledge on the enclosed copy of this transmittal		

Sincerely yours,

W. Samuel Hamrick, Jr.  
 Clerk of Court

By: Angela Rowland  
 Angela Rowland, Deputy

Date: 9/10/2008